IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10799 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHESHBHAI RAVJIBHAI PATEL

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 10799 of 2002

MR HARIN P RAVAL for Petitioner No. 1-4

MR GIRISH D BHATT for Respondent No. 1,3-4

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 28/10/2004

ORAL JUDGEMENT

1. The petitioners herein have preferred this petition in order to quash and set aside the order dated

08/01/2002, passed by respondent no.2 herein, at Annexure-K to the petition.

2. Petitioner no.4 herein is a partnership firm and petitioners no.1 to 3 are the partners of the said firm. The petitioner firm was having two Industrial Estates, one at Aaji Industrial Estate and the other at Bhaktinagar Industrial Estate, both situated in Rajkot District. That on 20/11/1999, an application was made by the petitioner firm for transferring the Low Tension connections of the shed at Bhaktinagar Industrial Estate to High Tension connections. The said application of the petitioner firm was rejected.

3. On 28/03/2001, show cause notice was issued to the petitioner firm to show cause as to why 20 per cent of electricity duty should not be imposed on the petitioner firm, at Annexure-K to the petition. The petitioners replied to the said show cause notice vide reply dated 14/04/2001. Thereafter, by order dated 08/01/2002, the petitioners were directed to pay 20 per cent of the electricity duty on H.T. connections as well as on the L.T. connections.

4. Feeling aggrieved by the aforesaid actions of the respondent Board, the petitioners have preferred this petition before this Court.

5. I have heard learned counsel for the parties and perused the relevant documents on record. The impugned notice dated 28/03/2001, at Annexure-K to the petition, was issued to M/s.Patel Brass Works, i.e. petitioner no.4 herein. Reply to the said show cause notice was submitted by the petitioners on 14/04/2001, which is not referred to in the order dated 08/01/2002, issued to the petitioners, at Annexure-K to the petition. Prima facie, it appears that the respondent authority has not considered the reply filed by the petitioner firm, i.e. petitioner no.4 herein, and no notice has been issued to petitioners no.1 to 3.

6. In above view of the matter, the order dated 08/01/2002, at Annexure-K to the petition, is required to be quashed and set aside only on the ground that all the petitioners were not heard and the reply of petitioner no.4 was not considered, though it was received before the impugned order came to be passed.

7. In the result, the order of the respondent authority dated 08/01/2002, at Annexure-K to the petition, is quashed and set aside. The respondent

authority is directed to issue fresh notices to all the petitioners referred to in the order dated 08/01/2002, and after considering their reply and after hearing them, shall pass a reasoned order to that effect. With the above directions, the petition stands disposed of. Rule is made absolute to the above extent.

8. It is made clear that the impugned order has been quashed only on the ground that the petitioners reply was not considered. This Court has not considered the matter on merits and the respondent authority shall not be influenced by the fact that this Court has quashed its earlier order, while deciding the matter afresh. Direct service permitted.

(K. S. Jhaveri, J.)
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